

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS

No. 6:23-cv-00305

Herbert Arceneaux,
Plaintiff,

v.

Warden Rodriquez et al.,
Defendants.

ORDER

Plaintiff Herbert Arceneaux, proceeding pro se and *in forma pauperis*, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983. The case was referred to United States Magistrate Judge John D. Love. On August 28, 2023, Judge Love issued a report and recommendation (Doc. 12), recommending that plaintiff's claims be dismissed with prejudice until plaintiff can show that his confinement has been declared unlawful by an authorized state tribunal or called into question through the issuance of a federal writ of habeas corpus. *Id.* The magistrate judge further recommended that dismissal of plaintiff's civil rights lawsuit should not prevent him from challenging the legality of his confinement through any lawful means, including state or federal habeas corpus proceedings. *Id.* The report and recommendation was sent to plaintiff at his last known address of record, but the mail was returned undeliverable and plaintiff has not updated his address with the court. To date, no objections have been filed and the time period for doing so has passed.

When no party objects to the magistrate judge's report and recommendation, the court reviews it only for clear error. *See Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1420 (5th Cir. 1996). Having reviewed the magistrate judge's report, and being satisfied that it contains no clear error, the court accepts its findings and recommendation. Plaintiff's claims are dismissed with prejudice until he can show that his confinement has been declared unlawful by an authorized state tribunal or called into question through the issuance of a

federal writ of habeas corpus. Dismissal of this civil rights lawsuit will not prevent plaintiff from challenging the legality of his confinement through any lawful means, including, but not limited to, state or federal habeas corpus proceedings.

So ordered by the court on October 23, 2023.

A handwritten signature in black ink, appearing to read "J. Campbell Barker", is written over a horizontal line.

J. CAMPBELL BARKER
United States District Judge